

Message from the President Federation of Private Medical Practitioners' Associations Malaysia.

“Private Medical Practice in Malaysia-State of Health 2013”

President & Fellow Members of our Fraternity,

As you wine and dine to celebrate this happy occasion, I have been asked by your Organising Committee to present you with a situation report of the various issues currently confronting our members now and in years to come.

1: Amendments to Regulations PHFSA

Amendments to the Regulations were promised to us in 2006 by the then Minister of Health. Today, as I talk about this is the year 2013.

On 24.4.2006 at the launch of the Regulations of the PHFSA, the Minister of Health clearly stated that the letter and spirit of PHFSA is not intended to criminalize the private practitioner but to ensure that medical care of patients remain in the hands of registered medical practitioners. He also said, that the enforcement of the regulations the public will be assured that their health and safety will be protected from abuse by unqualified persons, entities and companies offering unproven treatments and healthcare. It was also meant to regulate the “business of medicine”.

From the outset, the Federation had expressed strong misgiving about this and had feared for the worse for the private medical practitioner. The Federation together with other medical NGOs participated in the Amendment Committee set up by the Ministry to propose a comprehensive set of proposed amendments which was accepted and further refined over a period of two years. To date, we are yet to see these amendments passed and gazetted. Thus the original promise in 2006 by the then Minister that the amendments would be passed within a year was never fulfilled.

Now, more than six years since that date, we are amazed with the recent confession from the Ministry that the PHFSA only have the power to act against registered doctors. Indeed, Dr. Basmullah, a bona-fide private practitioner became the first doctor to be severely punished and sent to jail for the simple administrative failure of registering his clinic in time.

It is fair for the profession and the public to ask for a detailed report on how the PHFSA have been used prosecute those illegally providing private healthcare services like quacks, charlatans, direct selling practitioners etc and to regulate the “business of medicine” as was stated in 2006 by the MOH.

2: Amendments to Certificate of Registration of Clinics

Among the many administrative problems posed by the PHFSA and Regulations was the issue of registration of clinics and amendments to the Certificate of Registration. The original promise from the Ministry was that all approvals or otherwise would be within two weeks upon receipt of the application. The Director-General of Health in 2006 had also agreed that registered clinics moving premises within the same vicinity would only need to send in their Certificate of Registration for amendment and not go through the whole process of reapplying for a new registration. The succeeding DG had also confirmed and reaffirmed that this would be so. The Federation continues to receive reports from its members that such has not been honored. Doctors relocating their practices even within the same shopping complex and office building have been asked to reapply all over again for their Certificate of Registration.. Thus another promise not kept.

We wonder why what was agreed at the Ministerial level is often completely ignored by “little Napoleons” who now have the power to interpret the letter of the Law as they see fit, much to the distress of the poor private practitioner who has no recourse except to close shop or to comply.

3: Revision to Doctors' Professional Fees

The Fees Schedule in the Regulation 2006 was based on rates that were in operation since the year 2000. It was agreed that the Fees Schedule would be revised every three years in tandem with the increase in cost of living and inflation. The Minister of Health himself in 2011 suggested a proposed increase of 30%. After an exhaustive series of meetings and workshops involving all the disciplines, what was finally announced was a trimmed down increase of 14.4%. With an original fee schedule that is by now more than 13 years behind time, this increase works out to 1.2% per year.

As expected, there was much public hue and cry. Another round of doctor-bashing in the media followed. This has conveniently delayed the gazettement of this new fee schedule and the delay is not to the long-term betterment of patient care.

Sadly, the profession will have to endure once again this predictable outcry every time doctors' fees are discussed in public. There are sufficient examples of unprofessional doctors and their unprofessional acts to justify this. No one will ever admit that the majority of doctors do work very hard for their living and deserve to be re-numerated accordingly.

4: Dichotomy of prescription and dispensing (DUNAS-Dasar Ubat Nasional)

The original policy of DUNAS is to eventually dichotomise the act of prescription and dispensing.

The stand of the Federation is that this policy will increase cost and cause additional inconvenience to patients compared to the present 1-stop system in private clinics. We have repeatedly stated that it is the undeniable right of the patient to choose where he/she wants to get her medications. The option of choice is basic to the right of good medical care. This policy of separation will create additional burden to the rakyat and should be reviewed.

The Federation shall re-affirm its view in the Workshop for Master Plan for the roll-out of DUNAS

5: . Default of payment by MCOs/Third Party Payors – Regulations for MCOs/TPPs

This is becoming a recurrent issue and is disrupting continuity of patient care. Doctors providing care and treatment are under constant worry that they may not be paid at the end of the day. MCOs come and go and when they are ready to go, some have left without paying. Doctors, hospitals and patients are then left hanging high and dry. Recourse to legal action is futile as it would be years before the matter can be heard and settled.

This is the real “business of medicine” which the PHFSA was supposed to regulate but in practice has been unable to do so. Where indeed are the regulations for MCOs within the PHFSA? We are now told that the PHFSA has no specific provisions to regulate MCOs. How did this come about?

Malaysia is indeed becoming a Kingdom of Middlemen, unlike China which was once called the Middle Kingdom. For patients to see a doctor they must go through a middle man and for the doctors to see the patient, they also have to go through middle man. How on earth will this middle-men system be able to control cost of healthcare?

Calling for the drafting of a new MCO Bill is also a non-starter as it will be years before the new bill can be enacted and enforced. By the time the new act is ready, many of the guilty parties would have long gone and the damage to the healthcare system will be irreparable.

Of late, our GP members in the Malaysian Primary Care Network have complained that a certain MCO have not been paying their bills for as long as two years. When they chased for payment, their contract with the MCO was terminated. What can we do as a profession?

It does look like the only recourse for doctors to protect themselves against all the unfair trade practices of MCOs is to call for concerted nationwide action.

The Federation will fully support such a move undertaken by any of its sister societies including the MPCN. It will provide an Action Committee to specifically help implement this action using our financial and manpower resources.

6: Medical Practice Agreements between doctors, MCOs, Hospitals and other private healthcare facilities

There are agreements between MCOs and private healthcare facilities that are clearly in breach of PHFSA and the Code of Professional Conduct of the MMC. Many times, doctors are party to these agreements without their knowledge. Often they are arm-twisted to sign in agreement or face termination as has happened in a number of occasions across the country.

The PHFSA and Regulations require that all a copy of agreements between private healthcare facilities be lodged with the Ministry of Health. We wonder if this is done in practice. We are of the view that all these agreements be vetted by the legal officer of the Medical Practice Division and monitored to ensure that patient's rights, safety and quality of care will not be compromised.

7: Fee splitting

The extraction of discounts from the professional fees of doctors by MCOs and insurance companies in order that doctors can receive or continue to receive patients from these entities has been determined administratively by the Ministry of Health and ethically by the Malaysian Medical Council as a form of fees splitting and thus is illegal. The DG of Health in 2007, had issued two press statements on this following the Federations' action against a multi-national insurance company. I would like to remind our members, that following the DG's press statement, the offending insurance company had subsequently issued a press statement that it would return back to the doctors the money that they had taken as discounts. It is only proper for our members to check if this has been done.

From the point of professional ethics, this form of fee-splitting has also been determined as unethical by the Guidelines on MCOs issued by the Malaysian Medical Council. Doctors signing such contracts are exposing themselves to action by the MMC. Despite this, many MCOs and Insurance companies have continued to extract discounts from doctors. Doctors who refused have been terminated from panels of such companies and also from the hospitals.

One such case occurred in Seremban in 2006. The doctor, a pioneer consultant in a private hospital refused to sign a new contract which required him to give discount. The hospital terminated his services. The doctor then took the hospital to court for wrongful dismissal. As the Federation president, I testified in court to present evidence in support of the doctor and the background of our class-action against the above-mentioned insurance company on fees-splitting. Eventually the hospital backed off and the case was settled by consent judgment in favour of the doctor. This particular case confirms that there are firm grounds to have this issue tested in court. The time is right for our members to take up the call individually and collectively.

The Federation urges all doctors who feel strongly aggrieved that a portion of their hard-earned professional fees have been unfairly taken away should take similar action to stop this unfair practice and to recover their monies. We estimate that this will collectively come up to hundreds of millions of ringgit. There will be many good legal firms who will be happy to be part of this action. Indeed the Federation via its Joint Integrated Healthcare Committee(JIHC) is ready to provide the supportive background resources for this action on behalf of its members.

8: GP with XR facilities – requirement for radiographer

The Federation took on this issue with a written memorandum to the Director-General of Health highlighting that this requirement will increase cost as well as cause inconvenience to the patient.. To provide for the cost of complying with this requirement, the Federation asked the MOH to immediately approve an increase in GP XR fees. It was pointed out that our GPs provided this as a public service for the convenience of the patients without which they would be clogging up hospitals' XR departments.

The Federation's team represented by Deputy-President Dato' Dr. Lim Boon Sho and Dr. G. Shanmuganathan had an uphill task at the meeting with the Ministry of Health. All our requests were denied. We believe that the existence of about 3000 unemployed radiographers in the country had a bearing on this issue.

An appeal letter was sent to the DG by the President requesting that the implementation be deferred to allow the details to be worked out. The latest development is that the implementation of the requirement will be deferred for a year with effect from 31st August 2013. Our view is that doctors who find it unviable to maintain such a facility should decommission their machines

9: Inspection of bona fide private clinics

We continue to receive reports from our members, who are bona fide registered medical practitioners about the actions of over-zealous enforcement officers. Doctors who have been harassed are advised to bring the matter up with their sister societies who then will forward the complaint to the Federation. The Federation has on many occasions represented the doctor in dealing with these complaints at the Ministry level. Members are reminded that there are records of SOPs agreed upon by previous DGs which they can rely on to mitigate their cases.

10: The Pathology Laboratory Act 2007

It is now 6 years since the passage of the Act. The Regulations to enforce this Act are still nowhere in sight. Private laboratories and similar related entities continue to offer health care and health screening services of all forms. The Federation is of the view that they should all also come under regulation by the PHFSA. The Ministry of Health has confirmed this in writing in a previous letter in reply to the Federation on this issue. This delay in implementation does open the door to a lot of unanswered questions.

Consequent to this we now have an explosion of pharmacies, pharmacists, direct-marketing companies and other healthcare providing companies blatantly breaching the provisions of the PHFSA and Regulations. The Federation urges the Ministry to act firmly to protect the public and to ensure that medical care of patients shall remain in the hands of registered medical practitioners.

11: Evidence-based medicine/CME/CPD

The Federation finds it difficult to understand how the MOH can so strongly advocate for EBM whilst at the same time promoting and allowing non-EB treatment modalities in hospitals. We feel that the same rigorous standards should apply across the board for the sake of patient safety.

In keeping with the Ministry objective, the Federation and its sister societies have been running sustainable CME/CPD programs. For this we have asked the Ministry to formally recognize and partially fund CME/CPD activities of Federation and similar NGOs.

12: Private Hospitals' outreach clinics/1 Malaysia Clinics

Though it has been the position of the Ministry not to allow private hospitals to have outreach clinics, it has not been able to stop this from happening. It is clear that this matter has not been adequately addressed in the PHFSA and will continue to have an adverse effect on our private primary care system operated by

independent practitioners.

At the same time, more and more 1 Malaysia clinics are now located into areas that are already adequately served by our general practitioners. The Federation had proposed that all future 1M clinics be located in areas that are underserved by private clinics so as to improve accessibility and coverage.

All these adverse factors will eventually see the demise of the independent private primary care practitioners. The trend is for badly affected clinics to close down and for GPs to opt for alternative non-core, non-medical related practices like aesthetic procedures and treatment. Outpatient clinical medicine will take a back seat.

At the end of the day, the once robust private primary care system of the country which in the past catered for about 60% of the nation's primary care needs will eventually demise. This will be detrimental to the entire healthcare system of the future.

13: Over-production of doctors

In the near future too we will be producing up to 8000 doctors every year from local as well as from foreign medical schools. The production from foreign schools has overshoot local production and seems to be unstoppable. We already have more than 33 medical schools inactive production locally. This will be compounded by the free-flow of medical professionals from the region in 2015 with the full roll-out of AFAS and the MRA.

At this present moment, our public hospitals are barely able to provide sufficient training posts for housemen and newly qualified medical officers. This is the stark reality confronting the new doctors of today and tomorrow. The private sector will also be similarly affected. We should not be surprised that in the near future, you will find doctors driving taxis like in some neighboring countries.

Conclusion

Fellow doctors, in ending, it is my observation that the golden age of the solo independent private general practitioner is clearly over. Large GP chain practice owned by businessmen and corporations will dominate the field. A doctor wishing to practice good medicine will be merely their workhorse. We are now seeing the dawn of commercialization of medicine.

In fact I have advised my children and shall likewise, will advise my grand children not to take up medicine. I believe many of you feel the same.

It is also our duty to inform our patients and the public of the sad state of health that will confront them if all these unhealthy trends of commercialization of medical education and medical care is left unchecked.

Thank you.

A handwritten signature in black ink, appearing to read 'Steven KW Chow', with a large, sweeping flourish above the name.

Steven KW Chow
President
FPMPAM